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11 SAMANTHA WANG, and IMAGE DEVICE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 ATECH FLASH TECHNOLOGY INC. &
16 SUNUS SUNTEK INC.

17 Plaintiffs,

18 vs.

19 MARTIN C. LIN, YUSHAN WANG, A.K.A.
20 SAMANTHA WANG., AND IMAGE
DEVICE INC.

21 Defendants.
22

Case No.: C07 02949 PVT

**THIRD STIPULATED REQUEST TO
CONTINUE CASE MANAGEMENT
CONFERENCE AND [PROPOSED]
ORDER**

The Hon. Patricia V. Trumbull

23 Pursuant to Civil Local Rule 6-2, plaintiffs Atech Flash Technology Inc. and Sunus
24 Suntek Inc. and defendants Martin C. Lin, Yushan Wang, a.k.a. Samantha Wang, and Image
25 Device, Inc. hereby stipulate and request that this Court continue the initial case management
26 conference, presently set for December 4, 2007, to March 4, 2008 or until a reasonable time after
27 the Court's final disposition of its subject matter jurisdiction.
28

1 The parties jointly declare the following in support of this request:

2 WHEREAS, on September 18, 2007, the Court issued its order granting Defendants'
3 motion to dismiss for lack of subject matter jurisdiction, allowing Plaintiffs to file a First
4 Amended Complaint in this action on or by October 8, 2007;

5 WHEREAS, on October 1, 2007, the Court issued an order resetting the initial case
6 management conference to December 4, 2007, thus requiring the parties to complete their initial
7 disclosures and file their Rule 26(f) Report and Joint Case Management Statement by November
8 27, 2007;

9 WHEREAS, defendants Martin C. Lin, Yushan Wang, a.k.a. Samantha Wang, and Image
10 Device Inc. anticipate filing a motion to dismiss plaintiffs' First Amended Complaint for, *inter*
11 *alia*, lack of subject matter jurisdiction and any other reasonable grounds;

12 WHEREAS, on September 12, 2007, the Court referred this case to mediation to be
13 completed by December 11, 2007;

14 WHEREAS, all plaintiffs and defendants filed their written consents to proceed before a
15 United States Magistrate Judge on August 2, 2007;

16 WHEREAS, the parties have agreed to conduct a mediation on December 6, 2007 to
17 explore the possibility of settlement of this case, and further agreed that defendants may file their
18 responsive pleading by January 4, 2008 so that defendants would have enough time to prepare
19 documents for second motion to dismiss and to avoid conflict schedule of plaintiffs' counsel;

20 WHEREAS, it might take up to two months for the court to hear the proposed motion to
21 dismiss dependent upon the calendar of this Court;

22 WHEREAS, the requested continuance of the initial case management conference would
23 be in the agreed best interests of the parties and have no effect on the schedule for this case;

24 WHEREAS, it would best serve judicial economy for this Court to continue the initial
25 case management conference until after resolution of its subject matter jurisdiction in this action;

26 WHEREAS, the parties stipulated to a previous five (5) day enlargement of time for
27 defendants to respond to plaintiff's complaint and were granted one written request for a
28 stipulated continuance and one oral request for a stipulated continuance regarding the initial case

1 management conference while the Court considered Defendants' first motion under Fed. R. Civ.
2 P. 12(b)(1);

3 WHEREFORE plaintiffs Atech Flash Technology Inc. and Sunus Suntek Inc. and
4 defendants Martin C. Lin, Yushan Wang, a.k.a. Samantha Wang, and Image Device Inc. hereby
5 jointly stipulate and request that this Court continue the initial case management conference until
6 March 4, 2008 or until a reasonable time after the Court's final disposition of its subject matter
7 jurisdiction.

8
9 Dated: November 19, 2007

/s/ Yung-Ming Chou

Yung-Ming Chou

11 Attorney for Plaintiffs
12 ATECH FLASH TECHNOLOGY INC. &
13 SUNUS SUNTEK INC.

14 Dated: November 19, 2007

15 By: /s/ Richard A. Kutche

Richard A. Kutche

17 Attorney for Defendants
18 MARTIN C. LIN, YUSHAN WANG, AKA
19 SAMANTHA WANG, and IMAGE
20 DEVICE INC.

ORDER

21 After consideration of the parties' Third Stipulated Request to Continue Case
22 Management Conference and [Proposed] Order and good cause appearing:

23 PURSUANT TO STIPULATION, IT IS SO ORDERED that the initial case management
24 conference, previously set for December 4, 2007, has been rescheduled for March 4, 2008 at
25 2:00 p.m. before United States Magistrate Judge Patricia V. Trumbull. Parties are to appear in
26 courtroom #5, 4th floor of the United States Courthouse, 280 South First Street, San Jose,
27 California.

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Dated: _____, 2007

Patricia V. Trumbull
United States Magistrate Judge